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UNCLAS HARARE 001805

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NSC FOR SENIOR AFRICA DIRECTOR J. FRAZER  
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SUBJECT: Tsvangirai Treason Trial Postponed Until

September 22

REF: HARARE 1598

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¶1. (SBU) Lawyers for Morgan Tsvangirai advised the Embassy on September 12 that by mutual agreement of the parties, resumption of Tsvangirai's treason trial was postponed from September 15 to September 22. Presiding Justice Garwe approached the parties on September 11, noting that he had scheduling conflicts the following week and giving the parties the option of postponing, which the parties took.

¶2. (SBU) When the trial recommences, the first order of business will be a hearing on the prosecution's application seeking amendment of its indictment before Tsvangirai presents his case. In its application, the

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state admitted that the evidence that it had offered thus far differed from the particulars in the indictment. The state is seeking to invoke a section of the Criminal Procedure and Evidence Act that allows a party to amend an indictment in order to correct discrepancies between the indictment and the evidence introduced at trial. During the trial, the prosecution introduced no evidence to prove that Tsvangirai specifically requested representatives of Dickens and Madson to arrange for the assassination of Robert Mugabe at a third meeting. The state wishes to alter the indictment to show that no request was made at a third meeting.

¶3. (SBU) Defense attorneys will oppose the application but have yet to file a response. Garwe is expected to hear the state's application on September 22, and will have the option of reserving judgment while the defense proceeds, or suspending the trial pending judgment. In the latter case, a decision would likely be rendered and the trial resumed within a week, according to defense attorneys.

¶4. (SBU) COMMENT: The state's application to amend the indictment suggests the prosecution's doubts about the evidence's sufficiency to support a conviction. In any event, the trial's broader political context suggests it likely will stretch out until at least the end of the year, as Tsvangirai suggested to us recently. A conviction before December's Commonwealth Heads of Government Meeting (CHOGM) in Abuja would upset Zimbabwe's prospects for having its Commonwealth suspension lifted and seems unlikely. While an acquittal before that might be seen to enhance Zimbabwe's international image, the government may choose to string the case out as long as possible. A lengthy trial would absorb Tsvangirai's attention, potentially leaving substantive party leadership and involvement in possible inter-party talks increasingly to other MDC principals (e.g., MDC Secretary General Welshman Ncube) with whom the ruling party feels more comfortable. It would further fit in with ZANU-PF's long-standing strategy of keeping the MDC on the defensive, requiring the opposition's time and resources to be devoted to harassing litigation instead of a more proactive agenda. Sullivan